

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 October 2024

DOCKET NUMBER: AR20230009709

APPLICANT REQUESTS:

- Removal of a 2008 General Officer Letter of Reprimand and related documents
- Referral to a Special Selection Board for Chief Warrant Officer five (CW5)

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Counsel's Brief with enclosures/exhibits (443 pages)
- Power of Attorney
- Counsel's facts outline and discussion
- Army Board of Review For Eliminations Transcript Of Hearing
- General Officers Memorandum of Reprimand with applicant's acknowledgment
- Applicant's Rebuttal
- Report To Suspend Favorable Personnel Actions (FLAG)
- Show Cause Board Notification
- Department of the Army Suitability Evaluation Board (DASAB) Proceedings
- Notification of Elimination actions notice with acknowledgement
- Board of Inquiry Board (BOI) appointments
- Notice to Appear
- Applicant Request for delay
- Counsel request for delay
- Emails related to BOI
- Recusal request and denial notice
- Defense witness list
- Government witness list
- Counsel's statement
- Letters of Character (13)
- Report Of Proceedings By Investigating Officer/Board Of Officers (BOI)
- Applicant's Memorandum for Show Cause Proceedings
- Applicant's notification

- Legal review
- BOI Options notification
- Command's recommendation
- Army Board Of Review For Eliminations Transcript Of Hearing
- Elimination Board finding and recommendation
- Officer Evaluation Reports May 1997 - 2011
- Awards and Commendations (10)
- Applicant's statement of Military Chronology (undated)
- Department of the Army Assistant Secretary (DASA) review and decision
- Officer Record Brief
- Curriculum Vitae
- 2nd complete copy of the above records

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant defers to his counsel for a statement. Counsel states, Dr. Jexxxx [the applicant] was forced to retire from the Army after a Human Resources Command (HRC) directed Board of Inquiry (BOI) for a GOMOR issued in 2008 for an alleged security violation during deployment and alleged forgery of an official documentation. In 2008, the applicant was an intelligence chief and tasked with securing classified communication linkup with satellites. The applicant allegedly processed the forms with a cut/paste of the prior authorized form and was later accused of forgery and accessing sensitive systems without authorization. He was branded with a GOMOR for security violations in 2008. In 2012, the applicant underwent a formal BOI and in 2013 ASA-MRA (Assistant Secretary of the Army (Manpower and Reserve Affairs)) directed a retirement in lieu of elimination. Prior to the BOI, the applicant was on the promotion list to CW5. He was then forced to retire on 31 March 2013, as a chief warrant officer four (CW4). The applicant has consistently stated his innocence and that the allegations of the forgery are incredibly weak. The applicant provides the 400 pages of his service records related to his reprimand and associated documents leading to his separation as noted above.

3. A review of the applicant's service records shows:

a. With prior enlisted service, the applicant was appointed a Warrant Officer on 28 January 1997. He served in a variety of assignments, and he was promoted to CW4 on 1 September 2007.

b. The applicant received a General Officer Memorandum of Reprimand (GOMOR) on 15 December 2008, for allegations that he submitted a forged Interim Authority to Connect ("IATC") in an attempt to restore Secret Internet Protocol Router Network ("SIPRNET") connectivity. The GOMOR reads:

"As the US Army South Information Assurance Manager for the Deployable Joint Command and Control, you were required to timely submit the Interim Authority to Operate (IATO) signed by the Designated Accrediting Authority (DAA) to Defense Information Security Agency (DISA) to ensure that an Interim Authority to Connect (IATC) allowed Secret Internet Protocol Router Network (SIPRNET) connectivity prior to PANAMAX 2008, this command's capstone training event and JTF certification exercise. On or about 10 August 2008, you knowingly and wrongfully submitted a forged IATC in an attempt to restore SIPRNET connectivity that was lost during the exercise because DISA had not received the paperwork to establish and maintain the connectivity.

You are hereby reprimanded. Your failure to ensure that the IATO was timely submitted prior to PANAMAX 2008 and subsequent submission of a forged IATC to DISA to remedy your error is unacceptable. Your dereliction and fraudulent actions jeopardized mission success. Your conduct constitutes a serious departure from the high standards of integrity, professionalism, and trust expected of a warrant officer with your duties and responsibilities. It cannot and will not be tolerated. You have violated a position of trust, and have discredited yourself, this command, and the United States Army and compromised the security of the secured network. Information Assurance Managers are entrusted with some of the most important duties in today's Army and must be relied upon to exhibit sound judgment. Instead, you have acted in a manner that brings discredit upon you, the Warrant Officer Corps, and the Army. Moreover, your disregard for the security of our network casts serious doubts on your suitability for information assurance management in any capacity.

While this is an administrative action and not punishment under Article 15, UCMJ, it has significant consequences for your career. I am considering filing this memorandum in the performance fiche of your Official Military Personnel File. However, you have the right to submit matters in your behalf within 5 duty days, and I will consider anything you offer in your behalf before making my actual filing decision.

c. The applicant filed a response on January 7, 2009, denying any wrongdoing on his part. The imposing general officer reviewed the Reprimand dated 15 December 2008, supporting documentation, the applicant's rebuttal matters, and the filing recommendations from the chain of command. Pursuant to AR 600-37, Unfavorable

Information, paragraph 3-4(b), he directed that the reprimand, with supporting documentation, be filed permanently in applicant's Official Military Personnel File (OMPF).

d. On 14 July 2010 the applicant was notified that the Department of the Army Suitability Evaluation Board (DASEB) denied his request to remove or transfer the GOMOR.

e. On 2 January 2012, the applicant was notified that he had been identified by the promotion board to show cause for retention based on the GOMOR.

f. At the request of the applicant, a BOI was ordered on 16 April 2012. The BOI convened on 23 May 2012. In concert with his hearing the applicant submitted copies of 18 Officer Evaluation Reports, 9 copies of awards and commendations, and 13 letters of support.

g. After hearing testimony and reviewing the evidence, the BOI determined that the allegations in the Show Cause order were supported by a preponderance of the evidence and recommended that the applicant be separated from active duty with an honorable characterization of service.

h. On 11 January 2013, an Army Board of Review for elimination was held. The Board recommended that the applicant be separated under the provisions of AR 600-8-24, paragraph 4-2b, for substantiated derogatory.

i. The Deputy Assistant Secretary of the Army approved the Board recommendation on January 15, 2013, with a retirement in lieu of elimination. The retirement was effective 28 February 2013, with an Honorable discharge.

j. The applicant requested retirement in lieu of discharge which was granted.

k. The applicant was honorably retired on 20 February 2013 in the grade of CW5. The applicant's DD Form 214 shows:

- 16 years, 1 month, and 3 day active duty service this period
- 7 years, 6 months, and 23 days of prior active service
- Award of the:
 - Bronze Star Medal
 - Meritorious Service Medal (2nd Award)
 - Army Commendation Medal (2nd Award)
 - Army Achievement Medal (3rd Award)
 - Meritorious Unit Commendation

- Army Superior Unit Award
- Army Good Conduct Medal (2nd Award)
- National Defense Service Medal (2nd Award)
- Global War On Terrorism Expeditionary Medal
- Global War On Terrorism Service Medal
- Armed Forces Service Medal (
- Humanitarian Service Medal
- Iraq Campaign Medal with Campaign Star
- Non Commissioned Officer Professional Development Ribbon (2nd Award)
- Army Service Ribbon
- Overseas Service Ribbon (3rd Award)

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The evidence of record shows the applicant was reprimanded for allegations that he submitted a forged Interim Authority to Connect ("IATC") in an attempt to restore Secret Internet Protocol Router Network ("SIPRNET") connectivity. He was afforded the opportunity to review all of the evidence against him and to submit matters on his own behalf prior to a final filing decision and he did so. After careful consideration of the applicant's case and the applicant's rebuttal, the imposing general officer ordered filing of the GOMOR in the applicant's AMHRR. The GOMOR is currently filed in the performance section of his AMHRR.

b. The applicant's GOMOR triggered a Board of Inquiry (BOI). The BOI recommended his involuntary separation based on misconduct and moral or professional dereliction. In January 2013, the board of review for eliminations recommended that he be involuntarily separated based on misconduct and moral or professional dereliction. Since he was retirement eligible, the board of review recommended retirement in lieu of elimination. The DASA (RB) approved the board's recommendation to eliminate the applicant from the Army based on misconduct and moral or professional dereliction (AR 600-8-24, paragraph 4-2b).

b. Among the purposes of filing unfavorable information is protection, not just for the Soldier's interests but for the Army's as well. There is a reluctance to remove or transfer adverse information when it places an applicant on par with others with no blemishes for promotions, assignments, and other favorable actions. The GOMOR is an administrative tool used by the imposing officer to train and rehabilitate. Once the

GOMOR was filed in his AMHRR, it became a permanent record and will not be removed from or moved to another part of the AMHRR unless directed by certain agencies, to include this Board. The GOMOR is properly filed, and the applicant has not proven this GOMOR to be either untrue or unjust. The Board found no justification or persuasive argument to remove it.

c. An SSB for promotion is appropriate if an applicant can prove a material error. A material error in a SSB is an error in a military record that could have resulted in a different outcome if it had been corrected before the promotion board considered the officer. The Board did not find, and the applicant has not proved a material error in the record. Therefore, the Board not only found insufficient evidence to support removal of this GOMOR from his records but also insufficient evidence to qualify him for an SSB.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.1.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)), states the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. Army Regulation 600-37 (Unfavorable Information) provides that :

a. Administrative letters of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The letter must be referred to the recipient and the referral must include and list applicable portions of investigations, reports or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before filing determination is made. Letters of reprimand may be filed in a Soldier's OMPF only upon the order of a general officer level authority. The direction for filing is to be contained in an endorsement or addendum to the letter. If the reprimand is to be filed in the OMPF then the recipient's submissions are to be attached. Once filed in the OMPF the reprimand and associated documents are permanent unless removed in accordance with Chapter 7.

b. Chapter 7 of the regulation provides that once filed in an OMPF a document is presumed to have been administratively correct. Appeals to the DASEB to relocate a reprimand, admonition, or censure are based on proof that the intended purpose has been served and that transfer to a restricted portion of the file would be in the best interest of the Army.

c. Army Regulation 624-100 prescribes the policies and procedures for promotion of officers on active duty. This regulation specifies that promotion reconsideration by a special selection board may only be based on erroneous non-consideration due to administrative error, the fact that action by a previous board was contrary to law, or because material error existed in the record at the time of consideration. Material error in this context is one or more errors of such a nature that, in the judgment of the reviewing official (or body), it caused an individual's non-selection by a promotion board and, that had such error(s) been corrected at the time the individual was considered, a

reasonable chance would have resulted that the individual would have been recommended for promotion. The regulation also provides that boards are not required to divulge the proceedings or the reason(s) for non-selection.

//NOTHING FOLLOWS//